HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
P.O. Box 2910, Austin, Texas 78768-2910
(512) 463-0752 • http://www.hro.house.state.tx.us

HOUSE RESEARCH ORGANIZATION

daily floor report

Wednesday, April 29, 2015
84th Legislature, Number 59
The House convenes at 10 a.m.
Part Two

Twenty-two bills are on the daily calendar for second-reading consideration today. The bills analyzed in Part Two of today's *Daily Floor Report* are listed on the following page.

Alma Allen
Chairman
84(R) - 59

HOUSE RESEARCH ORGANIZATION

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Wednesday, April 29, 2015

84th Legislature, Number 59

Part 2

SUBJECT: Replacing STAAR writing exams with locally designed assessments

COMMITTEE: Public Education — committee substitute recommended

VOTE: 9 ayes — Aycock, Allen, Deshotel, Dutton, Galindo, González, Huberty, K. King, VanDeaver

0 nays

2 absent — Bohac, Farney

WITNESSES: For — Randy Willis, Granger ISD; Kim Cook and Dineen Majcher, TAMSA; Bruce Gearing, Texas Association of Community Schools (TACS); Buck Gilcrease, Texas Association of School Administrators; Monty Exter, the Association of Texas Professional Educators; and six individuals; (*Registered, but did not testify*: Kevin Brown, Alamo Heights ISD, TASA; Ann Teich, Austin Independent School District; Julie Cowan, Austin ISD Trustees; Mike King and Gina Mannino, Bridge City ISD; Jodi Duron, Elgin ISD; Mary Whiteker, Hudson ISD; Howell Wright, Huntsville ISD; Betsy Singleton, League of Women Voters; Kristi Hassett, Lewisville ISD School Board; Berhl Robertson, Jr, Lubbock ISD; Jimmy Parker, Lubbock Roosevelt ISD; Keith Bryant, Lubbock-Cooper ISD; George McFarland, Tahoka ISD; Barry Haenisch, Texas Association of Community Schools; Doug Williams, Texas Association of School Administrators; Paige Williams, Texas Classroom Teachers Association; Mark Terry, Texas Elementary Principals and Supervisors Association; Ellen Arnold, Texas PTA; Colby Nichols, Texas Rural Education Association; Maria Whitsett, Texas School Alliance; Portia Bosse, Texas State Teachers Association; Grover Campbell, Texas Association of School Boards; and five individuals)

Against — Zenobia Joseph; (*Registered, but did not testify*: Bill Hammond, Texas Association of Business)

On — Michael Barnes, Texas Center for Educational Policy (TCEP) at the School of Education at the University of Texas, Austin; Courtney Boswell, Texas Institute for Education Reform; (*Registered, but did not*

testify: Criss Cloudt, Shannon Housson, and Gloria Zyskowski, Texas Education Agency)

BACKGROUND: Under Education Code, sec. 39.023(a), students in grades 4 and 7 must take a writing exam as part of required statewide assessments for public school students, currently known as the State of Texas Assessments of Academic Readiness (STAAR) exams. High school students take a combined reading and writing STAAR end-of-course (EOC) exam for both English I and English II, as provided by sec. 39.023(c). These are among the five EOC exams students must pass in order to graduate.

DIGEST: CSHB 1164 would replace statewide standardized writing exams with locally designed and implemented methods to evaluate student writing. Results from those local assessments would not be reported to the Texas Education Agency (TEA) or factored into district and campus accountability ratings.

Beginning with the 2016-17 school year, the bill would eliminate grade 4 and 7 writing exams and the writing component of high school EOC exams for English I and English II. Districts would be required to evaluate students in those grades and subjects using any method a district determined appropriate, including portfolios. Districts would be required to provide written notice of a student's performance on a writing assessment to the student's parents or person standing in parental relation.

High school students would be required to demonstrate satisfactory performance of the essential knowledge and skills in writing for English I and English II in order to receive a diploma.

Each school year, districts would be required to prepare a report by district and campus that included aggregate student performance on local writing assessments in the grades and high school courses required to be assessed. The report would be filed with the school board and posted on the district's website.

The bill would make conforming changes and apply certain requirements to the Job Corps diploma program, the three-year high school diploma plan pilot program, and the Texas Juvenile Justice Department educational

program.

TEA would be required to adopt or develop appropriate criterion-referenced exams designed to assess essential knowledge and skills in English language arts by September 1, 2016.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY:

CSHB 1164 would reduce high-stakes testing by eliminating writing as a statewide standardized test for students in grades 4 and 7 and as a component of the English I and English II end-of-course (EOC) exams. The bill would strengthen local control while still ensuring that students gain the writing abilities that will enable them to compete in college and the workplace.

The 83rd Legislature in 2013 passed HB 5 by Aycock, which combined separate reading and writing exams for English I and English II into a single assessment for each EOC. An unintended consequence was that two separate four-hour reading and writing exams were compressed into one five-hour test. About 28,000 seniors are not on track to graduate because they have failed one or more EOC exams, and students are struggling the most to pass the writing assessment. Many parents and educators think the exam is flawed. For instance, the STAAR writing results for high school students in one of the state's most accomplished school districts showed a lower level of college readiness than those students' corresponding scores on Advanced Placement exams and the ACT English Composition standard.

Writing is a complex skill that must be developed by students and their teachers over time and by practice. Students' writing skills cannot easily be judged on the basis of a one-time performance on a prescriptive 26-line essay. Time that students could be spending learning to think critically and transfer those thoughts to paper instead is spent preparing for a formulaic exam.

The bill would allow districts to measure students' writing progress over

the course of a school year through portfolios and other methods. Teachers who spend hours grading student essays are more qualified to assess student writing than temporary workers hired by the state's testing contractor who may only have a few minutes to grade a student's writing sample. While it is true the bill would curtail the flow of accountability data to policymakers, students would continue to take a reading and English language arts exam. Providing data that many educators believe is based on a flawed assessment might be worse than providing no data.

The reduced testing requirements would save the state an estimated $30.7 million for fiscal 2016-17, according to the fiscal note. The benefits of reducing high-stakes testing would include less anxiety for students, teachers, and parents. Federal law does not require students be assessed in writing, and Texas does it four times during a student's school years.

OPPONENTS SAY:

CSHB 1164 could disrupt the positive impact that the state's testing and accountability system has made on student writing skills. Results from STAAR writing exams provide valuable information that can be used at the state level to adopt policies to improve students' writing. The bill would curtail the flow of that information to TEA and state policymakers.

The bill would represent a step back from accountability because some students are not performing well enough on their writing exams. However, recent administrations of STAAR writing exams have shown gains by students, particularly among African American students and English language learners. These gains could be lost if the state switched to an accountability system that did not require districts to report how specific student subpopulations were performing on writing assessments.

STAAR writing assessments are only given twice before high school, in grades 4 and 7, and twice in high school. This is not a burdensome requirement and leaves plenty of time for writing that is not related to STAAR tests.

Writing has become a critical skill required by more employers than in previous generations. Texas schools must prepare students for the writing they will be expected to do in college and the workforce. Preparing students to write a coherent, well-organized, and grammatically correct

answer to a prompt is not wasted time.

OTHER OPPONENTS SAY:

Instead of eliminating state writing exams, the state should work to improve their quality. Changes could be made to require students to compose extended written answers in response to intellectually challenging prompts. Those assigned to evaluate student writing could receive sufficient training to produce highly consistent ratings. Additionally, Texas could encourage teachers to use classroom-based writing assessments to monitor student progress more frequently and adjust their instruction as needed.

NOTES:

According to the Legislative Budget Board's fiscal note, CSHB 1164 would save an estimated $30.7 million in general revenue for fiscal 2016-17.

The Senate companion bill, SB 1893 by Garcia, was referred to the Senate Education Committee on March 25.

SUBJECT: Requiring reports on the confinement of pregnant inmates in county jails

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 7 ayes — Coleman, Burrows, Romero, Schubert, Stickland, Tinderholt, Wu

1 nay — Spitzer

1 absent — Farias

WITNESSES: For — Matt Simpson, ACLU of Texas; Alexandra Chirico, Texas Criminal Justice Coalition; Diana Claitor, Texas Jail Project; Jennifer Allmon, The Texas Catholic Conference of Bishops; Lauren Johnson; (*Registered, but did not testify*: Jason Sabo, Children at Risk; Kathryn Freeman, Christian Life Commission; Charles Reed, Dallas County Commissioners Court; Bob Libal, Grassroots Leadership; Cate Graziani, Mental Health America of Texas; Eileen Garcia, Texans Care for Children; Jacqueline Rodriguez and Kyleen Wright, Texans for Life Committee; Joe Pojman, Texas Alliance for Life; Josh Gravens, Texas Citizens United for Rehabilitation of Errants (CURE); Joshua Houston, Texas Impact; Troy Alexander, Texas Medical Association; Andrew Cates, Texas Nurses Association; Lisa Haufler; Leah Lobsiger; Nancy Mcenany)

Against — R. Glenn Smith; (*Registered, but did not testify*: William Travis, Micah Harmon, AJ Louderback, and Dennis D. Wilson, Sheriffs' Association of Texas)

On — Brandon Wood, Texas Commission on Jail Standards; (*Registered, but did not testify*: Diana Spiller, Texas Commission on Jail Standards)

BACKGROUND: Government Code, sec. 511.009(a)(18) requires that the Texas Commission on Jail Standards adopt reasonable rules and procedures establishing minimum requirements for jails to determine if an inmate is pregnant and to ensure that the jail's health services plan addresses medical and mental health care, including nutritional requirements, and

any special housing or work assignment needs for pregnant inmates.

Local Government Code, sec. 361.082 places restrictions on the use of restraints for pregnant women in jail. A municipal or county jail may not use restraints to control the movement of a pregnant woman in jail at any time when the woman is in labor or delivery or recovering from delivery, except as determined necessary to ensure the safety and security of the woman or her infant, jail or medical personnel, or any member of the public, or to prevent a substantial risk that the woman will attempt escape. If a determination to use restraints is made, the type of restraint used and its manner of use must be the least restrictive available under the circumstances to ensure safety and security or to prevent escape.

DIGEST:

HB 1140 would require each sheriff to report to the Texas Commission on Jail Standards on the implementation of policies and procedures to provide adequate care to pregnant inmates jailed in the sheriff's county. The report, due September 1, 2016, would include:

- a description of the sheriff's actions to comply with the rules and procedures adopted under Government Code, sec. 511.009(a)(18) and any policies adopted on the placement of a pregnant inmate in solitary confinement or administrative segregation;
- information on the health care provided to a pregnant inmate, including the availability of obstetrical or gynecological care, prenatal health care visits, mental health care, and drug abuse or chemical dependency treatment;
- a detailed summary of pregnant inmates' nutritional standards, including their average caloric intake and other dietary information; and
- a detailed summary of pregnant inmates' work assignments, housing conditions, and situations in which a pregnant inmate had been restrained, including the reason for the use of restraints.

The commission would be required to compile, analyze, and summarize the information contained in the sheriffs' reports by December 1, 2016. The commission is required to provide a copy of the summary to the governor, lieutenant governor, House speaker, and each standing committee of the Senate and House of Representatives with primary

jurisdiction over matters relating to corrections.

The bill would take effect September 1, 2015, and would expire February 1, 2017.

SUPPORTERS SAY:

HB 1140 would direct the Texas Commission on Jail Standards (TCJS) to conduct a comprehensive study that would provide necessary data to assess the care and conditions for pregnant inmates in Texas jails. While TCJS currently evaluates incidents involving pregnant inmates on a case-by-case basis, Texas is ill-equipped to evaluate its policies on nutrition standards, use of restraints, and the health care needs with regard to pregnant inmates in county jails because the state currently does not collect or maintain these data.

Each month, hundreds of pregnant women are confined in county jails. Policies at individual jails that determine the care they receive can be opaque, and the study required by the bill would help bring clarity to specific needs and areas for improvement that the state should address. While the bill could lead to additional work for county jails, this work would be crucial and necessary to protect the basic human rights of pregnant inmates and their babies.

HB 1140 would not lead to violations of federal law protecting the privacy of health information because the data would be collected and reported in a way that did not tie it to specific inmates. The bill also would help protect counties against liability. By identifying gaps in the service and treatment of pregnant inmates, it would reduce the potential for lawsuits by pregnant inmates who alleged mistreatment.

OPPONENTS SAY:

HB 1140 would be unnecessary because county jails in Texas already work closely with TCJS to ensure that inmates receive quality care. The bill's reporting requirement could duplicate information in reports jails already submit on a monthly basis in a different form. Meeting the reporting requirement could be burdensome for jails with large inmate populations because it would take a significant amount of time for staff to collect the required information. In addition, the gathering and reporting of health information about inmates could conflict with laws protecting the privacy of health records.

SUBJECT: Allowing psychologists to delegate certain care to interns

COMMITTEE: Public Health — favorable, without amendment

VOTE: 11 ayes — Crownover, Naishtat, Blanco, Coleman, Collier, S. Davis, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

WITNESSES: For — Megan Mooney, DePelchin Children's Center; James Bray and Amanda Phillips, Texas Psychological Association; (*Registered, but did not testify*: Katharine Ligon, Center for Public Policy Priorities; Jason Sabo, DePelchin Children's Center; Cate Graziani, Mental Health America of Texas; Miryam Bujanda, Methodist Healthcare Ministries; Lee Johnson, Texas Council of Community Centers; David White, Texas Psychological Association; Casey Smith, United Ways of Texas)

Against — (*Registered, but did not testify*: Kulvinder Bajwa, Harris County Medical Society)

On — Charles Walker

BACKGROUND: Occupations Code, sec. 501.351(a) provides licensed psychologists with general authority to delegate certain psychological tests or services to a provisionally licensed psychologist, a newly licensed psychologist not eligible for managed care panels, a person who holds a temporary license to practice, and a person qualified to take the provisional license exam who has had at least two years of supervised experience in psychological services.

Under sec. 501.351(b), the test or service delegated by the licensed psychologist is considered for billing purposes to have been delivered by the delegating psychologist.

DIGEST: HB 1924 would allow a licensed psychologist to delegate certain tests or services to a person enrolled in a formal internship, as provided by the rules of the Texas State Board of Examiners of Psychologists.

The bill would take effect September 1, 2015.

SUPPORTERS SAY:

HB 1924 would amend current law to allow psychologists to delegate certain tasks to supervised pre-doctoral interns so the psychologists could bill for those services. The majority of Texas counties are experiencing a mental health workforce shortage. Granting psychologists the ability to bill intern services to insurance companies would give psychologists an added incentive to take on pre-doctoral interns, which could help to increase the number of qualified mental health professionals in the state.

Many doctoral students have difficulty finding somewhere to intern when they reach the internship stage of their training. Allowing psychologists to bill for certain services provided by interns would incentivize them to provide internships. This also could increase the likelihood that they would provide paid internships. Earning a small income as interns could help psychology doctoral students to reduce their overall debt, which can be substantial.

When they complete their training, most newly licensed psychologists choose to practice near the area where they interned. Increasing the number of internships available in Texas would encourage more of the state's graduates to practice here instead of exporting the state's educational investment elsewhere. At the same time, increasing the available internships would encourage more out-of-state students to intern in Texas, which also would make them more likely to practice here and eventually contribute to the state's mental health workforce.

HB 1924 would not expand the scope of services that psychologists could delegate. Currently, these psychologists already may delegate certain tests and services to others who are eligible to perform them. The bill simply would allow the supervising psychologist to delegate these tasks to interns and to bill for their work.

OPPONENTS SAY:

HB 1924 could decrease the quality of psychological care in the state and lead to the erosion of care over time. A patient who paid to visit a licensed psychologist instead might end up seeing an intern. The state should limit the tests and services psychologists may delegate to maintain high-quality

care in Texas and minimize scope-of-practice concerns.

NOTES: The companion bill, SB 546 by Eltife, was referred to the Senate Health and Human Services Committee on February 18.

SUBJECT: Allowing certain counties to pay to transport senior citizens and others

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 7 ayes — Coleman, Farias, Burrows, Romero, Schubert, Spitzer, Wu

2 nays — Stickland, Tinderholt

WITNESSES: For — Craig Pardue, Dallas County; (*Registered, but did not testify*: Charles Reed, Dallas County Commissioners Court; Rick Thompson, Texas Association of Counties; Josh Gravens, Texas Citizens United for Rehabilitation of Errants (CURE); Donald Lee, Texas Conference of Urban Counties; Bradford Shields, Travis County Commissioners Court)

Against — None

BACKGROUND: Under Local Government Code, sec. 615.022, the Harris County Commissioners Court may use county general funds to pay for transportation of senior citizens for civic, community, educational, and recreational activities within and outside the county.

DIGEST: HB 1929 would expand the authorization to use county general funds for the transportation of senior citizens for civic, community, educational, and recreational activities to include Dallas County, in addition to Harris County.

The bill also would allow the expenses paid out of the county general funds by the commissioners courts of Dallas and Harris counties to cover transportation to these activities for residents and visitors, more generally, if a majority of the costs paid were for the transportation of senior citizens.

The bill would take effect September 1, 2015.

SUPPORTERS SAY: HB 1929 would allow Dallas County to fund costs associated with senior citizen transportation to sponsored health fairs and county wellness centers, which could improve senior citizens' health and save money in the

long run. According to the U.S. Census Bureau, almost 10 percent of Dallas County's population is over the age of 65.

The senior citizen population is particularly vulnerable to certain illnesses and conditions. Some health issues can be prevented or minimized by early medical intervention, including vaccinations, health screenings, and eye checkups. Sponsored health fairs and county wellness centers can offer these services, but the senior citizen population must have transportation access to reach these destinations. This bill would allow Dallas County to pay to transport its elderly residents to obtain these types of services.

Transportation-related expenses, such as gas or van rentals, are small compared to the significant cost of emergency care services, which a senior citizen might need if a condition goes undetected or untreated. Keeping the elderly population out of the emergency rooms of county hospitals by providing them with transportation to obtain preventive care would be cost-effective and would be better for senior citizens.

HB 1929 would not be mandatory and would support local control. Dallas County needs statutory authority to provide this type of service to their senior citizens. HB 1929 would give local authority so that Dallas County could decide if this type of service should be offered.

OPPONENTS SAY:

By expanding authorization to use county general funds for the transportation of senior citizens and others and expanding authorization to Dallas County, HB 1929 could create an added cost that might become a burden to the county and its residents.

SUBJECT: Requiring inquiry into Native American heritage during custody hearings

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 6 ayes — Dutton, Riddle, Hughes, Peña, Rose, J. White

0 nays

1 absent — Sanford

WITNESSES: For — Jo Ann Battise, Arnold Battise, and Nita Battise, Alabama-Coushatta Tribe of Texas; (*Registered, but did not testify*: Nicole Kidd, Natalie Munlin, Erskine Mcdaniel, and Letitia Plummer, Intended Parents' Rights; Katherine Barillas, One Voice Texas; Connie Gray and Daryn Watson, Texas Adoptee Rights; Steve Bresnen, Texas Family Law Foundation; Jennifer Emerson, Ysleta del Sur Pueblo (Tigua Indians) of El Paso; and nine individuals)

Against — None

On — Tina Amberboy, Texas Children's Commission; (*Registered, but did not testify*: Elizabeth "Liz" Kromrei, Child Protective Services)

BACKGROUND: The federal Indian Child Welfare Act (ICWA) provides standards of proof to remove a child from a parent or to terminate the parental rights of a parent if the child is a member of a Native American tribe, is eligible for membership in tribe, or is the biological child of a member of a tribe. ICWA also provides placement preferences to keep children who are members of Native American tribes connected to their tribes if they are removed from their parents.

The standards of proof in ICWA are higher than those in parent-child relationship cases for children who are not members of Native American tribes.

DIGEST: HB 825 would require courts to conduct inquiries of any parties involved in a hearing to identify whether a child or a child’s family had a Native

American heritage and to identify any Native American tribes with which the child may be associated during:

- full adversary hearings when a governmental entity takes possession of a child;
- status hearings after a child has been placed under the care of the Department of Family and Protective Services; and
- permanency hearings to determine placement of a child.

The bill would prevail over any conflicting act of the 84th Legislature relating to non-substantive additions to and corrections in enacted codes.

This bill would take effect September 1, 2015, and would apply only to hearings held on or after that date.

SUPPORTERS SAY:

HB 825 would help courts across the state comply with the federal Indian Child Welfare Act (ICWA). Failure to comply with ICWA can have unfortunate consequences in child custody proceedings. Children can be removed from the homes where they were placed, court orders can be undone, and adoptions can be voided.

Many judges and lawyers who practice family law are not familiar with ICWA. This bill would require courts to conduct an inquiry into a child's background early and often throughout the custody proceedings. That way, if a child did have ties to a Native American tribe, a court could be sure to apply the requirements of ICWA.

HB 825 would further the goals of ICWA and ensure that children were protected. It also would preserve tribal culture by allowing tribes to maintain ties with children who were removed from the custody of their parents. This would ensure that these children do not grow up to be disconnected from their roots.

OPPONENTS SAY:

No apparent opposition.

SUBJECT: Requiring removal of equipment, insignia before selling police vehicles

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 8 ayes — Phillips, Nevárez, Burns, Johnson, Metcalf, Moody, M. White, Wray

1 nay — Dale

WITNESSES: For — (*Registered, but did not testify*: Keith Oakley, Associated Security Services and Investigators of the State of Texas (ASSIST); TJ Patterson, City of Fort Worth; Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); Kevin Lawrence and Lon Craft, Texas Municipal Police Association (TMPA))

Against — None

On — Marios Parpounas, Texas Facilities Commission

BACKGROUND: Under Penal Code, sec. 37.11, a person impersonating a public servant, including a police officer, with the intent to induce someone to submit to the person's pretended authority or performing any function of the public servant is a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000).

DIGEST: CSHB 473 would amend the Government Code and the Local Government Code to require removal of certain equipment and insignia from law enforcement vehicles before they were sold to the public or a security services contractor.

The bill would prohibit the Texas Facilities Commission, any other state agency, a municipality, or a county from selling or transferring a marked patrol car or other law enforcement motor vehicle to the public unless all equipment or insignia that could mislead a reasonable person to believe it was a law enforcement motor vehicle was first removed. This equipment would include any police light, siren, amber warning light, spotlight, grill

light, antenna, emblem, outline of an emblem, and emergency vehicle equipment.

CSHB 473 also would prohibit a municipality, a county, or a state agency, including the Facilities Commission, from selling or transferring a marked patrol car or other law enforcement motor vehicle to a licensed security services contractor that was regulated by the Department of Public Safety unless each emblem or insignia that identified the vehicle as a law enforcement vehicle was removed before the sale or transfer.

This bill would take effect on September 1, 2015.

SUPPORTERS SAY:

CSHB 473 would reduce the public's confusion in identifying which vehicles were associated with law enforcement by requiring that certain equipment and insignia be removed from law enforcement vehicles before they were sold. Although many agencies do not sell law enforcement vehicles without stripping them of any equipment, emblems, or insignia, many agencies or political subdivisions still may sell these vehicles without properly decommissioning them because there are no set statutory requirements. CSHB 473 would ensure that all agencies and political subdivisions complied with this important rule.

Although impersonating a police officer already is illegal, allowing the sale of a police vehicle with equipment or insignia that is misleading to the general public makes it easier for these criminals to impersonate an officer. There have been incidents when men have used vehicles that resemble a police vehicle to stop women and sexually assault them. CSHB 473 would make it much more difficult for these criminals to impersonate an officer and confuse the public or commit other crimes.

CSHB 473 would allow the sale to security companies of law enforcement vehicles with certain equipment still on them, which would be beneficial to these companies. Identifying emblems and insignia still would be removed to prevent confusion.

The bill would not place an increased burden on agencies or political subdivisions that sell or transfer decommissioned vehicles. It would not be costly or time consuming to remove this equipment and insignia from the

vehicles.

OPPONENTS SAY:

CSHB 473 would be unnecessary because impersonation of a police officer already is illegal. In addition, most state entities that sell or transfer law enforcement vehicles already strip them of all identifying equipment or insignia.

SUBJECT: Barring contempt findings where child support paid in full.

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 5 ayes — Dutton, Riddle, Peña, Sanford, J. White

0 nays

2 absent — Hughes, Rose

WITNESSES: For — (*Registered, but did not testify*: Ingrid Montgomery, Intended Parents' Rights; Emily Gerrick, Texas Fair Defense Project; Yannis Banks, Texas NAACP)

Against — Karl Hays, Texas Family Law Foundation; Cecilia Wood

On — Elizabeth "Liz" Kromrei, Child Protective Services

BACKGROUND: The 83rd Legislature enacted HB 847, which repealed a subsection of Family Code, ch. 157 that prohibited a court from finding a person in contempt for failure to pay child support if that person appeared during a hearing to enforce a child support order with a copy of a payment record or other evidence showing he or she was current in payments as ordered. HB 847 also provided that a court could order court costs and reasonable attorney's fees to be awarded even if a person was not found in contempt.

DIGEST: HB 545 would prohibit the court from finding a person in contempt for failure to pay child support if that person appeared at the hearing with proof that he or she was current on support payments. The person owing support would need to present either a copy of the payment record or other evidence acceptable to the court in order to bar a contempt finding.

The bill would take effect September 1, 2015, and would apply only to hearings for suits affecting the parent-child relationship commenced on or after that date.

SUPPORTERS SAY: HB 545 would fill a gap in current law, providing protection for child

support obligors who make the support payments late but in full. Before legislation enacted in 2013 by the 83rd Legislature, the law protected individuals in this situation. The protection was eliminated as a way to provide recourse for the court when an obligor waited until the last minute to pay support. HB 545 would reestablish this protection and prevent parents who had paid their child support from being sent to jail, which can stop all payments to the families that depend on the support.

Few if any other instances exist under the law where a person can be jailed for money owed even after the money is paid. The bill would prevent this and would correct a misapplication of contempt laws, which should not apply when a person has complied completely with a court's order. Sometimes a clerical error made by a person's employer or another entity leads to unpaid child support payments through no fault of the obligor.

OPPONENTS SAY:

HB 545 would eliminate an important enforcement mechanism for courts when a person waits until the last minute to catch up on child support payments. Many individuals use the child support system to exert control over dependents, falling several months behind in payments until the date of the hearing while families struggle and must hire an attorney or contact the attorney general's office. Legislation in 2013 permitted courts to find individuals in contempt if they were engaging in this sort of behavior, but HB 545 would remove this protection. While courts often avoid imprisoning obligors, in part to prevent loss of income to pay support, it is important to have this enforcement mechanism to use when necessary.

SUBJECT: Exempting some youth from providing SSNs for hunting, fishing licenses

COMMITTEE: Culture, Recreation, and Tourism — favorable, without amendment

VOTE: 5 ayes — Guillen, Frullo, Larson, Márquez, Murr

0 nays

2 absent — Dukes, Smith

WITNESSES: For — Susan Hofker; John Hofker; Coleman Hofker

Against — None

On — Michael Hobson, Texas Parks and Wildlife Department

BACKGROUND: Family Code, sec. 231.302(c)(1) requires that each licensing authority request, and each license applicant provide, the applicant's social security number to assist in child support enforcement.

DIGEST: HB 821 would amend the Family Code so that the Texas Parks and Wildlife Department would not be required to request, and an applicant would not be required to provide, the social security number of an applicant for a hunting or fishing license if the applicant was 13 years of age or younger.

The bill also would amend the Parks and Wildlife Code to prohibit the Parks and Wildlife Commission from adopting rules that required the provision of a social security number of a person 13 years of age or younger who applied for a hunting or fishing license. However, the commission could adopt a rule requiring an applicant who was 13 years of age or younger, or the applicant's parent or guardian, to sign a statement that the applicant did not owe child support.

This bill would take effect September 1, 2015, and would apply only to an application for a hunting or fishing license submitted on or after January 1, 2016.

SUPPORTERS SAY:

HB 821 would protect children and their families from unnecessarily providing confidential information. The purpose of requesting social security numbers from licensing applicants is to check if the applicant owes money for child support, which is unlikely if that applicant is 13 years old or younger.

Under this bill, applicants who are 13 or younger, or their parent or guardian, could sign a sworn statement avowing that they did not owe child support in lieu of providing a social security number. This would help ensure that no barriers stood in the way of children enjoying nature with their family and friends.

OPPONENTS SAY:

No apparent opposition.

SUBJECT: Issuing 36th Infantry Division souvenir and specialty license plates

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 7 ayes — S. King, Frank, Aycock, Blanco, Farias, Schaefer, Shaheen

0 nays

WITNESSES: For — None

Against — None

On — Richard Noriega, 36th Infantry Division, TXARNG; Lester Simpson, Texas Military Forces; (*Registered, but did not testify*: Jeremiah Kuntz, Department of Motor Vehicles)

DIGEST: HB 923 would create the 36th Infantry Division specialty license plate and require the Department of Motor Vehicles, upon request, to issue the plates to people who had served in the 36th Infantry Division of the Texas Army National Guard. The license plates would be required to include the 36th Infantry Division emblem and the words "36th Infantry Division" at the bottom of each plate.

The bill would take effect September 1, 2015.

SUPPORTERS SAY: HB 923 would honor the service of Texans who had served and currently serve in the 36th Infantry Division. This division currently is the largest standing single formation of soldiers in the Texas Military Forces, and members of the division have included some of the most decorated soldiers of World War II.

The bill could raise the morale of those currently serving in this division and the plates would serve as a traveling piece of education and history. The souvenir plates also would help younger soldiers honor and recognize those who served in the 36th Infantry Division.

OPPONENTS SAY: No apparent opposition.

SUBJECT: Requiring disclosures, governing conduct relating to timeshare interests

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 6 ayes — Oliveira, Simmons, Collier, Fletcher, Romero, Villalba

1 nay — Rinaldi

WITNESSES: For — Justin Vermuth, American Resort Development Association; (*Registered, but did not testify*: Christina Hatfield, Silverleaf Resorts, Inc.)

Against — None

BACKGROUND: Under the Texas Timeshare Act, "timeshare interest" means an arrangement under which the purchaser receives a right to occupy a timeshare property.

The Deceptive Trade Practices-Consumer Protection Act allows a consumer to file a lawsuit when they have suffered economic damages or mental anguish because a person used certain false, misleading, or deceptive acts or practices. The prevailing consumer in these lawsuits may be awarded economic damages, damages for mental anguish, and reasonable and necessary attorneys' fees.

DIGEST: HB 2261 would require a person entering into an agreement with a timeshare interest owner to facilitate the transfer or termination of that interest to provide certain disclosures and notice to the owner. The bill also would govern the conduct of the person facilitating the transfer or termination.

"Termination" of a timeshare interest would mean either the release of contractual obligations relating to a timeshare interest by the developer, association, or managing entity or the invalidation of a timeshare interest by a judgment or court order. This definition would not include the cancellation of a purchase contract. "Transfer," with respect to a timeshare interest, would mean the conveyance of all or substantially all of a timeshare interest.

HB 2261 would require a person who had entered into an agreement with a timeshare interest owner to facilitate the transfer or termination of the interest to provide written disclosures to the owner. The disclosures would contain information regarding the potential transfer or termination, such as the contact information of the person providing services under the agreement and a description of any interest the owner retained after the transfer. The bill also would require the disclosure to contain the name of any person, other than the owner, who could occupy, rent, exchange, or otherwise use the timeshare interest during the term of the agreement or who was receiving consideration for those uses.

A person who entered into an agreement with a timeshare interest owner to facilitate the transfer of the interest would have to disclose in writing that the owner was not required to pay any consideration under the agreement until the owner received both a written acknowledgment from the managing entity that the person facilitating the transfer complied with all applicable policies governing the interest and a copy of the instrument transferring the interest.

The person entering into the agreement also would have to provide to the owner notices for the transfer or termination. The bill would provide default language for both kinds of notices, including a statement that the owner's responsibility to pay all costs and fees associated with their interest would not stop because the owner had entered into the agreement.

The bill would require that person to act in good faith to accomplish the transfer or termination by the 180th day after the person entered into the agreement with the owner. A person covered by this bill would be considered to have committed a false, misleading, or deceptive act or practice if they failed to disclose information that was required by the bill, made false or misleading statements concerning certain important facts related to the transaction, or encouraged or induced an owner to stop paying the managing entity in violation of the owner's contract before the completion of a transfer or termination.

A person who entered into an agreement with a timeshare interest owner to facilitate the transfer or termination of that interest would have to supervise, manage, and control all aspects of the services provided under

the agreement. Any violation of the requirements in this bill that occurred during the provision of services would be considered a violation by the person who entered into the agreement and any affiliate, agent, or third-party representative of that person.

The bill would apply to a timeshare interest if it had been acquired for the purchaser's personal, family, or household use and the timeshare interest was owned by a Texas resident, the property was located in Texas, or the interest was acquired in a multisite timeshare plan required to be registered. The bill would apply to a person who was acting in the ordinary course of business and either directly or indirectly offered or advertised an offer to engage in, for consideration, certain activities. HB 2261 would not apply to:

- a real estate broker or salesperson licensed under the Real Estate License Act;
- a developer, association, or managing entity for a timeshare interest that would be transferred or terminated; or
- an attorney, title agent, title company, or escrow company that provided only closing, settlement, or other specific transaction services related to the transfer or termination of a timeshare interest (and that did not otherwise engage in the activities described above).

The bill would take effect September 1, 2015, and only would apply to an agreement to facilitate the transfer or termination of a timeshare interest entered into, and conduct that occurred on or after that date.

SUPPORTERS SAY:

HB 2261 would protect timeshare interest owners from scammers who falsely represented that they would help the owner transfer or terminate the interest. In January, the Texas Department of Insurance released a consumer alert warning the public about these scams and gave tips on what to look for when approached by a potential scammer. The bill would require the company soliciting its services to provide important information to the owner. This would allow the owner to verify that the company was legitimate. The bill also would not allow these companies to ask for advance payment before the services had been provided, protecting against the possibility that a company could take the advance money and

disappear without completing its promised services.

While some of the conduct regulated under this bill already would be covered by other laws, the point is to prevent the activity from occurring in the first place. This bill would create harsh penalties for certain conduct, subjecting violators to damages available under the Deceptive Trade Practices-Consumer Protection Act. These penalties would deter scammers because the amount of damages an owner could recover from them could be very large.

Additionally, the bill would raise public awareness on the issue of timeshare interest scams and would give timeshare interest owners information on what to look for if approached by a company. The bill would not prevent legitimate companies from conducting their business — it would require only that those companies provide important information to their customers.

OPPONENTS SAY:

HB 2261 unnecessarily would burden timeshare transfer companies with disclosure requirements, regulations, and penalties. This could increase the workload for legitimate companies by requiring them to make cumbersome disclosures and provide written notices to each of their customers.

The bill would not be needed because the conduct regulated by the bill already is covered by other laws, such as those for conspiracy to commit mail fraud, wire fraud, telemarketing fraud, and aiding and abetting. If the penalties associated with those laws did not deter scammers then the penalties provided by this bill may not either, and the bill could burden legitimate businesses.

SUBJECT: Automatic renewal of certain groundwater production permits

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 10 ayes — Keffer, Ashby, D. Bonnen, Burns, Kacal, T. King, Larson, Lucio, Nevárez, Workman

0 nays

1 absent — Frank

WITNESSES: For — Thomas Taggart, Hays Caldwell Public Utility Agency; Ty Embrey, Middle Trinity Groundwater Conservation District, Panola County Groundwater Conservation District, Clearwater Underground Water Conservation District; Jim Conkwright, Prairielands Groundwater Conservation District; Hope Wells, San Antonio Water System; Stacey Steinbach, Texas Alliance of Groundwater Districts; Brian Sledge, Texas Water Conservation Association Groundwater Legislative Committee, Lone Star Groundwater Conservation District, Prairielands Groundwater Conservation District, Upper Trinity Groundwater Conservation District; (*Registered, but did not testify*: Kent Satterwhite, Canadian River Municipal Water Authority; Chuck Bailey, Canyon Regional Water Authority; Heather Cooke, City of Austin; Jeff Coyle, City of San Antonio; Robby Cook, Hemphill County Underground Water Conservation District; Harvey Everheart, Mesa Underground Water Conservation District; C.E. Williams, Panhandle Groundwater Conservation District; Billy Phenix, Schertz Seguin Local Government Corporation; Daniel Gonzalez and Steven Garza, Texas Association of Realtors; Kyle Frazier, Texas Association of Ground Water Owners and Producers; Billy Howe, Texas Farm Bureau; Shanna Igo, Texas Municipal League; Fred Aus, Texas Rural Water Association; Dean Robbins, Texas Water Conservation Association)

Against — None

On — Michele Gangnes, League of Independent Voters of Texas

BACKGROUND:

Under Water Code, sec. 36.113, a groundwater conservation district must require a permit for the drilling, equipping, operating, or completing of wells or for substantially altering the size of wells or well pumps. A district may require a permit amendment for a change in the withdrawal or use of groundwater during the term of a permit.

Permits and permit amendments may be issued subject to district rules and certain terms. Before granting or denying a permit or permit amendment, groundwater conservation districts must consider whether:

- the application meets requirements and includes the fee;
- the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;
- the proposed use of water is dedicated to any beneficial use;
- the proposed use of water is consistent with the district's approved management plan;
- the proposed use of water from the well is wholly or partly to provide water to a pond, lake, or reservoir to enhance the appearance of the landscape for a well located in the Hill Country Priority Groundwater Management Area;
- the applicant has agreed to avoid waste and achieve water conservation; and
- the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.

DIGEST:

CSHB 1248 would amend the Water Code, ch. 36, by requiring groundwater conservation districts (GCD) to automatically renew groundwater production permits without a hearing as long as renewal application fees were timely paid and the permit holder did not request any change to the permit that would require a permit amendment.

A GCD would not be required to automatically renew a permit if the permit holder:

- was delinquent in paying fees to the GCD;
- was subject to a pending GCD enforcement action for substantive

violation of the permit, order, or rule that had not been finalized; or
- had not paid a penalty or complied with a final non-appealable decision that the permit holder violated a permit, order, or rule.

If a permit holder was subject to a pending enforcement action, the permit would remain in effect until the conclusion of the action.

If a permit holder requested a change to the permit at the time of permit renewal, the existing permit would remain in effect until the later of:

- the conclusion of the permit amendment process;
- the conclusion of the permit renewal process, if applicable; or
- a final settlement or adjudication of a legal proceeding on the issue.

If the GCD denied a permit amendment request, the permit holder would have to be given the opportunity to renew the permit as it existed before the permit amendment process.

A GCD would be allowed initiate an amendment to an operating permit, through the renewal of a permit or otherwise, in accordance with district rules. If a GCD initiated an amendment to a permit, the existing permit would remain in effect until the conclusion of the permit amendment or renewal process.

GCDs would be required to adopt applicable rules as soon as practicable after the effective date of the bill.

This bill would take effect September 1, 2015.

SUPPORTERS SAY:

CSHB 1248 would provide more certainty in groundwater district permitting by requiring groundwater conservation districts to automatically renew groundwater production permits as long as the permit holder was in good standing and did not request any change to the permit that would require a permit amendment.

Reasonable certainty and predictability in the regulatory environment is key, especially when financing large-scale water projects that could require the issuance of long-term bonds. A typical groundwater

production permit term is five years, which makes long-term planning difficult. Knowing that in as little as five years there is a possibility that a district may not renew a permit or that the permit renewal could be subject to a contested case hearing can leave utilities, ratepayers, and investors without needed stability.

The bill would strike a balance in groundwater permitting by providing regulatory certainty for water providers while safeguarding the district's ability to manage the aquifer. Safeguards would include allowing the district to initiate a permit amendment at any time in accordance with their rules, as well as the ability to deny an automatic renewal if the permit holder was not in good standing.

This bill would not limit public participation in the management of an aquifer. The opportunity for contesting a case hearing existed when the permit was initiated. Under the bill, permits could be automatically renewed only if the permit holder was not requesting a change related to the renewal that would require an amendment to the initial permit. Further, existing provisions relating to permit amendments and the provision in the bill that would allow the district to initiate a permit amendment would require district rulemaking, which includes the opportunity for public participation. Any rule change implementing this bill would be accompanied by public notice and comment.

OPPONENTS SAY:

Requiring groundwater conservation districts to automatically renew groundwater production permits, under certain conditions, would eliminate the opportunity for members of the community to participate in a contested case hearing. It can take years for the full effect of a groundwater production permit to be recognized because districts have limited information at the time of the initial permit. While the bill would allow districts to initiate an amendment to a permit at any time, the public should have the opportunity to weigh in as well, especially if the reason for the amendment were in response to changes in the condition of the aquifer.

SUBJECT: Appropriations for miscellaneous claims and judgments against the state

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 19 ayes — Otto, Sylvester Turner, Ashby, Bell, G. Bonnen, Burkett, Capriglione, S. Davis, Gonzales, Howard, Hughes, Koop, Longoria, Miles, Muñoz, Jr., Phelan, J. Rodriguez, VanDeaver, Walle

0 nays

8 absent — Dukes, Giddings, Márquez, McClendon, R. Miller, Price, Raney, Sheffield

WITNESSES: For — None

Against — None

On — Michael Vanderburg, Legislative Budget Board; (*Registered, but did not testify*: Ursula Parks, Legislative Budget Board; Rob Coleman and Dolores Fojtasek, Texas Comptroller of Public Accounts)

BACKGROUND: For decades, every general appropriations act has contained a rider prohibiting the use of general revenue to pay any judgment or settlement against the state unless the funds are appropriated specifically for such purposes. The provisions are included in Art. 9, sec. 16.04 of the House-passed version of HB 1 by Otto, the general appropriations act for fiscal 2016-17.

DIGEST: HB 3330 would appropriate money from various accounts to pay outstanding claims and judgments against the state, which are listed individually. The bill would appropriate $1.8 million from the general revenue fund; $3.5 million from the state highway fund; $2,479 from the game, fish, and water safety account; $176 from the state parks account; $940 from the crime victims compensation account; and $25 from the unemployment compensation clearance account. For a claim to be paid, it would have to be verified and substantiated by the administrator for the special fund or account and be approved by the attorney general and the

comptroller by August 31, 2017.

The bill would take effect September 1, 2015.

SUPPORTERS SAY:

CSHB 3330 is the bill routinely filed each session to appropriate money to pay those who have been awarded a judgment against the state and various other unpaid claims and charges. Those who are legally entitled to these funds cannot receive them unless and until the Legislature appropriates the funds. Each claim would have to be verified and approved by the comptroller and attorney general before it could be paid.

OPPONENTS SAY:

No apparent opposition.

NOTES:

The Senate companion bill, SB 1280 by Huffman, was reported favorably from the Senate Finance Committee on April 15 and recommended for the local and uncontested calendar.